

SERVICE DATE – LATE RELEASE JUNE 6, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 225X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN CERRO  
GORDO COUNTY, IA

Decided: June 5, 2006

By decision and notice of interim trail use or abandonment (NITU) served on June 1, 2005, the Board granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to permit Union Pacific Railroad Company (UP) to abandon a line of railroad known as the Thornton Industrial Lead, from milepost 2.0 near Flint, IA, to milepost 17.14 near Thornton, IA, a distance of 15.14 miles, in Cerro Gordo County, IA, subject to environmental and standard employee protective conditions. Also, in response to a request by Iowa Trails Council (Iowa Trails), the Board issued a NITU to permit Iowa Trails to negotiate with UP for acquisition of the line for use as a trail under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), for a 180-day period extending until November 28, 2005. At the request of Iowa Trails, the negotiating period under the NITU was extended to May 27, 2006, by decision served on December 23, 2005.

On June 1, 2006, Iowa Trails filed a request for an additional 180-day extension of the NITU negotiating period. Iowa Trails states that this should be the last extension of time and that it expects to finalize negotiations very soon. UP filed a letter stating that it is willing to continue negotiating with Iowa Trails, and that it supports the extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by requesting an extension, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996). An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act.<sup>1</sup> Accordingly, the NITU negotiating period will be extended to November 23, 2006.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

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<sup>1</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The request to extend the interim trail use negotiating period is granted.
2. The negotiating period under the NITU is extended to November 23, 2006.
3. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary